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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 10/061,800      | 01/30/2002  | Svetlana V. Shchegrova | 10010464-1          | 1874             |

7590

08/10/2005

AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER

TRAN, MY CHAU T

ART UNIT

PAPER NUMBER

1639

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|   |                 |                   |  |
|---|-----------------|-------------------|--|
| <b>Advisory Action</b><br><b>Before the Filing of an Appeal Brief</b> | Application No. | Applicant(s)      |  |
|   | 10/061,800      | SHCHEGROVA ET AL. |  |
|   | Examiner        | Art Unit          |  |
|   | MY-CHAU T. TRAN | 1639              |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 19 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: NONE.  
Claim(s) objected to: NONE.  
Claim(s) rejected: 1-33.  
Claim(s) withdrawn from consideration: NONE.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
SEE ATTACHED SHEET.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

***ADVISORY ACTION (CONT.)***

1. The amendment and response filed 04/20/2005 and 04/21/2005 under 37 CFR 1.116 in reply to the final rejection has been considered and entered. Claims 34-48 have been cancelled.

2. Applicant's arguments directed to the rejection under 35 USC 103(a) as being unpatentable over Brown et al. and Tisone et al. for claims 1-3, 5-19, 21-29, and 31-33 were considered but they are not persuasive for the following reasons.

Applicant argues that the method combination of Brown et al. and Tisone et al. is not obvious over the presently claimed method because neither Brown et al. nor Tisone et al. teach or suggest 1) *'a head system containing multiple groups of dispensers each containing at least one set of dispensers'*; 2) *'that dispensers of a set are filled with the same fluid (or reagent)'*; 3) *'depositing drops only from non-error dispensers'*; and 4) *'using a second non-error dispenser of a set to deposit a drop where a first error dispenser of the same set failed to do so'*.

Therefore, the method combination of Brown et al. and Tisone et al. is not obvious over the presently claimed method.

Applicant's arguments are not convincing since the method combination of Brown et al. and Tisone et al. is obvious over the presently claimed method. Both references of Brown et al. and Tisone et al. do suggest 1) *'a head system containing multiple groups of dispensers each containing at least one set of dispensers'* (Brown: col. 4, lines 12-15; Tisone: col. 7, lines 61-67; col. 22, lines 7-31); 2) *'that dispensers of a set are filled with the same fluid (or reagent)'* (Brown: col. 11, lines 21-40, and 45-50; Tisone: col. 22, lines 7-31). Tisone et al. do suggest 1) *'depositing drops only from non-error dispensers'* (Tisone: col. 19, lines 1-13; col. 22, lines 7-

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31); and 2) *'using a second non-error dispenser of a set to deposit a drop where a first error dispenser of the same set failed to do so'* (Tisone: col. 19, lines 1-13; col. 22, lines 7-31). Thus, the method combination of Brown et al. and Tisone et al. is obvious over the presently claimed method, and the rejection is maintained.

3. Applicant's arguments directed to the rejection under 35 USC 103(a) as being unpatentable over Brown et al. and Tisone et al. as applied to claims 1-3, 5-19, 21-29, and 31-33, and further in view of Gamble et al. for claims 4, 20, and 30 were considered but they are not persuasive for the following reasons.

Applicant alleges that the method combination of Brown et al., Tisone et al., and Gamble et al. is not obvious over the presently claimed method because neither Brown et al., Tisone et al., nor Gamble et al. teach or suggest 1) *'a head system containing multiple groups of dispensers each containing at least one set of dispensers'*; 2) *'that dispensers of a set are filled with the same fluid (or reagent)'*; 3) *'depositing drops only from non-error dispensers'*; and 4) *'using a second non-error dispenser of a set to deposit a drop where a first error dispenser of the same set failed to do so'*. Therefore, the method combination of Brown et al., Tisone et al., and Gamble et al. is not obvious over the presently claimed method.

Applicant's arguments are not convincing since the method combination of Brown et al., Tisone et al., and Gamble et al. is obvious over the presently claimed method. The references of Brown et al. and Tisone et al. do suggest 1) *'a head system containing multiple groups of dispensers each containing at least one set of dispensers'*; 2) *'that dispensers of a set are filled with the same fluid (or reagent)'*; 3) *'depositing drops only from non-error dispensers'*; and 4)

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*'using a second non-error dispenser of a set to deposit a drop where a first error dispenser of the same set failed to do so'* as discuss in paragraph 2 above. Thus, the method combination of Brown et al., Tisone et al., and Gamble et al. is obvious over the presently claimed method, and the rejection is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to My-Chau T. Tran whose telephone number is 571-272-0810. The examiner can normally be reached on Monday: 8:00-2:30; Tuesday-Thursday: 7:30-5:00; Friday: 8:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Wang can be reached on 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mct  
August 5, 2005



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